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HAROLD B. WILLE

IN THE

Supreme Court of the United States

October Term, 1955

No. 524

MAY TERRY, *Petitioner*

v.

KEITH L. SEEGMILLER, *Respondent*

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Respondent Keith L. Seegmiller, through his attorney, opposes the granting of the petition for writ of certiorari for the following reasons:

1. The petition for the writ of certiorari does not state a ground within any of the well-known categories of cases traditionally entertained by this court upon the granting of the writ of certiorari. Rule 38(5) of the Rules of the United States Supreme Court.

Petitioner's statement of the facts shows that the controversy between the parties herein involves nothing more than an ordinary dispute between a client and an attorney arising in consequence of the dissatisfaction engendered in a client upon her failure to prevail in her action.

2. The case herein has been fully tried before the United States District Court for the District of Columbia on March 14 and 15, 1955, the court as well as counsel for respondent, defendant below, showing every possible con-

sideration to petitioner and, in view of her not having been represented by counsel, affording her every possible leeway and assistance in the presentation of her cause. The District Court decided the case adversely to petitioner, the court stating that petitioner had utterly failed to present any evidence which could serve as a basis for a judgment in her favor.

Petitioner filed a motion for a new trial and, the court having considered the briefs submitted in connection with said motion, entered an Order on March 25, 1955, denying her motion for a new trial.

The United States Court of Appeals for the District of Columbia Circuit, by Order dated July 15, 1955, dismissed petitioner's appeal with costs. It should be noted that the dismissal of petitioner's appeal followed a hearing on the transcript of the record brought up by petitioner, oral argument before the court, and consideration of a report duly filed by Edmund D. Campbell, specially appointed by the court as *amicus curiae*.

The United States Court of Appeals for the District of Columbia Circuit had a further occasion to consider this cause on petitioner's petition for reconsideration of the order of dismissal. By Order dated September 30, 1955, that court denied petitioner's motion.

3. It is respectfully submitted that the findings made by the United States District Court for the District of Columbia are legally sufficient, and that they fully conform to the requirements of Rule 52(a) of the Federal Rules of Civil Procedure.

The first finding that the defendant, respondent herein, "was not negligent in any respect in his representation of the plaintiff * * *", is tantamount to a finding that the defendant conducted the litigation entrusted to him by the petitioner in a reasonable and competent manner. The second finding reciting that "the defendant performed

fully and faithfully his duty and obligation to the plaintiff under his employment contract * * *" is an ample recital of the ultimate fact that the defendant did not, in any respect, breach his contractual obligations to the petitioner, plaintiff below.

In view of the very vaguely drawn allegations in the complaint, and in view of plaintiff's utter failure to point specifically to some act or omission on the part of respondent constituting negligence or a violation of contractual duty, it was, indeed, impossible for the trial court to formulate more concise findings.

The third of the trial court's findings stating as a fact that "the plaintiff suffered no damage by reason of any conduct of the defendant in the course of his representation of her * * *" does, in and by itself, effectively conclude the cause against the petitioner in the premises, and renders moot any consideration of the legal adequacy of the first two findings.

4. Inasmuch as the record before the United States Court of Appeals for the District of Columbia Circuit and in this court does not include a transcript of the evidence given before the trial court, and inasmuch as petitioner does not point to any evidence which would reasonably lead to a conclusion that she was entitled to recover, no substantive right of petition is shown to have been impaired by any of the proceedings in this cause.

On the basis of the foregoing arguments, it is respectfully prayed that the petition for the writ of certiorari be denied, with costs to abide the event.

Respectfully submitted,

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DENIED